

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**DAVID FLOYD, *et al.*,**

**08 Civ. 01034 (SAS)**

**Plaintiffs,**

**-against-**

**DECLARATION**

**THE CITY OF NEW YORK, *et al.*,**

**Defendants.**

**DECLARATION OF DAVID OURLICHT IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR STAY**

I, David Ourlicht, pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, declare that the following is true and correct:

1. I submit this affidavit in support of Plaintiffs' opposition to City of New York's motion seeking to stay this Court's Opinion and Order of August 12, 2013 regarding Remedies (the "Remedies Order").
2. I am one of the named plaintiffs in this action. My racial background is black and white; my father is black, and my mother is white.
3. As I testified at the trial of this action, as of that time I had been stopped three times by officers of the New York Police Department ("NYPD"). As the Court found in its Liability Decision, on at least one of those occasions the officer who stopped me lacked any basis for reasonable particularized suspicion that I was committing a crime. (Liability Decision at 148). The Court also found that the officers who frisked and searched me had no reasonable basis to believe that I was armed and dangerous. *Id.* at 148-49.

4. Since I testified at trial, I was stopped by NYPD officers a fourth time under circumstances that strongly suggest that the stop was illegal. On August 25, 2013, I was stopped at the corner of 170th Street and Grand Concourse, in the Bronx, by three officers who falsely claimed that I had been shouting. The badge numbers of the three officers who stopped me are 5729, 24350 and 239. During this encounter an NYPD paddy wagon appeared. One of the three officers who initially stopped me then gave me a summons for "Dis Con [which I assume means "Disorderly Conduct"] unreasonable noise". A copy of the summons is attached hereto as Exhibit A. The officer who gave me the summons told me at the time that the only reason why she was giving it to me is because her sergeant -- who had not witnessed the conduct in which I allegedly engaged and on which the officer's decision to stop me was supposedly based -- instructed her to do so. This female officer also told me that if I contested the summons I would win.

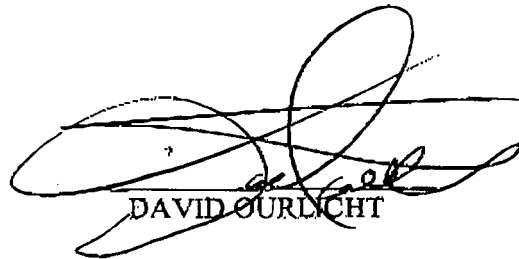
5. On none of the four occasions on which I was stopped by NYPD was I committing or about to commit any crime or violation. On each occasion I felt humiliated, and that the NYPD did not want me to be on the streets of New York. On the basis of my experiences, and the NYPD stop and frisk encounters many of my friends and acquaintances, all members of the class I represent, as well as the experiences of the class members who testified at trial, I am distrustful and fearful of the NYPD. I also felt scared and helpless each time I was stopped. NYPD officers have guns and a lot of power.

6. I chose to serve as a named plaintiff in this lawsuit because I want these kinds of humiliating and illegal encounters to stop happening to me, my friends and loved ones, and other people of color across New York City. I believe that the remedies ordered by the Court, including the retraining of officers about when it is legal to stop and when it is legal to frisk a

person, as well as the Joint Remedy Process, will achieve this goal and increase community trust of the police in the long term. However, until real changes to the NYPD's stop-and-frisk policies and practices are fully developed and implemented, I will continue to feel that every time I am on the streets of New York, I am in danger of being stopped by NYPD officers on the basis of my race and without regard to whether I am committing or about to commit any crime or violation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 5, 2013



DAVID OURLICHT

# EXHIBIT A

## The People of the State of New York

Name (Last, First, MI) David, ORIENT						Apt. No. 20	
Street Address 945 5th Ave							
City New York				State NY		Zip Code	
ID/License Number				State		Type/Class Passport	
Expires (mm/dd/yy) 5/13/19				Sex M			
Date of Birth (mm/dd/yy) 11/10/84		Ht 5'8"		Wt 160		Eyes Bl	
Hair Bl		Plate/Reg					
Reg State		Expires (mm/dd/yy)		Plate Type		Veh Type	
Make		Year		Color			

## The Person Described Above is Charged as Follows:

Time 24 Hour (hh:mm) 0210		Date of Offense (mm/dd/yy) 08/25/13		County BX	
Place of Occurrence 1401 Grand Concourse				Precinct 144	
In Violation of Section 240.20(2)		Subsection VTL		Admin. Code	
Penal Law		Park Rules		Other	

Title of Offense:  
DISCOG UNREASONABLE NOISEBronx Criminal Court - 215 E 161<sup>st</sup> Street, Bronx, NY 10451

Kings Criminal Court - 346 Broadway, New York, NY 10013

Redhook Community Justice Center - 88-94 Visitation Place, Brooklyn, NY 11231

New York Criminal Court - 346 Broadway, New York, NY 10013

Midtown Community Court - 314 W 54<sup>th</sup> Street, New York, NY 10019

Queens Criminal Court - 120-55 Queens Boulevard, Kew Gardens, NY 11415

Richmond Criminal Court - 67 Targee Street, Staten Island, NY 10304

Defendant stated in my presence (in substance):

I personally observed the commission of the offense charged herein. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law. Affirmed under penalty of law.

Complainant's Full Name Printed ROBERT M. PO... S.		Rank/Full Signature of Complainant		Date Affirmed (mm/dd/yy) 8/25/13	
Agency NYPD		Tax Registry 9530		Complaint Code 0163	
The person described above is summoned to appear at NYC Criminal Court located at 215 E 161 <sup>st</sup> St				Summons Part A79	
County BX					
Date of Appearance (mm/dd/yy) 11/7/13				At 9:30 a.m.	

DEFENDANT'S COPY